

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AKEENA TAYLOR

Plaintiff,

v.

KENNY/SHEA/TRAYLOR, JV, a Joint Venture,

Defendant.

No.

NOTICE OF REMOVAL

TO: The United States District Court for the Western District of Washington at Seattle:

Defendant Kenny/Shea/Traylor, JV, hereby gives notice that it is removing the above-captioned cause pursuant to 28 U.S.C. §§ 1441 and 1446, on the grounds set forth below.

1. Defendant Kenny/Shea/Traylor, JV (“Kenny/Shea/Traylor” or “Defendant”) is a joint venture of Kenny Construction Co., J.F. Shea Co., Inc., and Traylor Bros., Inc. Kenny Construction Co. is an Illinois corporation with its principal place of business in Illinois. J.F. Shea Co., Inc. is a California corporation with its principal place of business in California. Traylor Bros., Inc. is an Indiana corporation with its principal place of business in Indiana.

2. Plaintiff Akeena Taylor (“Plaintiff”) alleges in her complaint that she is an individual residing in Snohomish County, Washington.

3. The Summons and Complaint were filed with the Superior Court of the State of Washington for King County on April 20, 2009, denominated Cause No. 09-2-16470-3 SEA. On September 18, 2009, Plaintiff served the Summons and Complaint on

1 Kenny/Shea/Traylor. This notice is being filed within thirty days of Defendant's initial
2 receipt of Plaintiff's Complaint in accordance with 28 U.S.C. § 1446(b).

3 4. The basis for removal is complete diversity of citizenship. This Court has
4 diversity jurisdiction because this is a civil action between citizens of different states with an
5 amount in controversy in excess of \$75,000, exclusive of interest and costs. Defendant
6 Kenny/Shea/Traylor is a joint venture formed by Kenny Construction Co., incorporated in the
7 state of Illinois with its principal place of business in Illinois, J.F. Shea Co., Inc., incorporated
8 in the state of California with its principal place of business in California, and Traylor Bros.
9 Inc., incorporated in the state of Indiana with its principal place of business in Indiana. The
10 citizenship of a joint venture for purposes of determining whether there is diversity of
11 citizenship depends on the citizenship of the individual members of the joint venture. *Carson*
12 *Constr. Co. v. Fuller-Webb Constr.*, 198 F.Supp. 464 (D.Mont. 1961). Therefore,
13 Kenny/Shea/Traylor is a citizen of Illinois, California, and Indiana. For diversity purposes,
14 Kenny/Shea/Traylor is an Illinois, California, and Indiana citizen. Plaintiff is a resident of the
15 state of Washington and a Washington citizen. The requisite diversity of citizenship to
16 establish federal jurisdiction exists in this case.

17 5. Kenny/Shea/Traylor has a good faith belief that plaintiff is seeking damages in
18 excess of \$75,000, exclusive of interests and costs. Although Plaintiff's Complaint does not
19 set forth an exact dollar amount prayed for, Plaintiff has alleged that she was deprived of lost
20 pay and benefits. *See* Complaint, ¶¶ 10-15. In addition, plaintiff alleges sex and race
21 discrimination and seeks back pay, front pay, lost wages, emotional distress damages, and
22 attorneys' fees and costs. *See* Complaint ¶¶ 10-15, Prayer for Relief ¶¶ 1-6. On the face of the
23 Complaint, Plaintiff's claimed damages easily exceed \$75,000. This Court, therefore, has
24 original jurisdiction over this diversity action pursuant to 28 U.S.C. § 1332, and removal is
25 appropriate pursuant to 28 U.S.C. § 1441(b).

26 6. This case may be removed from state court to federal court because it
27 originally could have been commenced in federal court based on diversity. 28 U.S.C. §

1 1441(b). The United States Code confers original jurisdiction in the district courts over all
2 actions involving diversity actions. *See* 28 U.S.C. § 1332.

3 7. The only named defendant, Kenny/Shea/Traylor, consents to removal. Each
4 individual corporation that makes up the joint venture consents to removal. Therefore, this
5 action may be removed by Defendant to federal court pursuant to 28 U.S.C. § 1441. Under 28
6 U.S.C. § 1441(c), the right of removal applies to the entire lawsuit, including the pendant state
7 law claims. Removal is proper to the Western District of Washington at Seattle because the
8 district and division embrace King County.

9 8. True and correct copies of the Summons and Complaint served upon defendant
10 Kenny/Shea/Traylor are attached hereto as Exhibits A and B, respectively.

11 9. A true and correct copy of the entire state court file will be transmitted to the
12 United States District Court for the Western District.

13 10. Pursuant to 28 U.S.C. § 1446, Defendant will promptly give written notice of
14 the filing of this Notice of Removal to plaintiff.

15 11. Pursuant to 28 U.S.C. § 1446, Defendant will promptly file a copy of this
16 Notice of Removal with the Clerk of the King County Superior Court.

17 WHEREFORE, Defendant gives notice that the court action against it in King County
18 Superior Court has been removed from that court to the United States District Court for the
19 Western District of Washington at Seattle.

20 DATED this 8th day of October, 2009.

21 Davis Wright Tremaine LLP
22 Attorneys for Defendant
23 Kenny/Shea/Traylor, JV

24 By: /s/Kathryn S. Rosen
25 Kathryn S. Rosen, WSBA #29465
26 1201 Third Avenue, Suite 2200
27 Seattle, Washington 98101-3045
Telephone: (206) 622-3150
Fax: (206) 757-7700
E-mail: katierosen@dwt.com